Calendar No. 1037

98TH CONGRESS
2d Session

SENATE

REPORT
98–540

EXTEND THE LEASE TERMS OF FEDERAL OIL AND GAS LEASE NUMBERED U–39711

JUNE 28 (legislative day, JUNE 25), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1770]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1770) to extend the lease terms of Federal oil and gas lease numbered U–39711, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended do pass.

The amendments are as follows:

(1) Page 1, line 9, delete the words "oil and gas" and insert in lieu thereof the words "oil or gas".

(2) Page 2, line 1, delete the words "oil and gas" and insert in lieu thereof the words "oil or gas".

(3) Page 2, line 2, delete the word "lessor" and insert in lieu thereof the word "lessee".

(4) Page 2, line 2, delete the words "a reasonable time" and insert in lieu thereof the words "six months".

PURPOSE

The purpose of S. 1770, as reported, is to provide for the extension of lease terms of United States oil and gas lease numbered U–39711.

BACKGROUND AND NEED

The bill would extend the lease terms of U–39711, grant the lessee 6 months to install production equipment and facilities on the lease, require the lessee to tender payment of back rentals at the rate of not less than $5 per acre per year, and require the lessee to pay a future rental requirement of not less than $5 per acre per year and a future royalty rate requirement of not less than 16⅔ per centum.

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Lease U–39711, compromising 640 acres in Uintah County, Utah, was segregated out of lease U–7755 which had been issued for a term of 10 years effective March 1, 1969. Lease U–7755 originally comprised 1,119 acres. On January 30, 1978, the United States Geological Survey approved a lease unit, the Castle Unit, which included a portion of lease U–7755. The portion of lease U–7755 not committed to the Castle Unit, the nonunitized portion, was segregated out and designated lease U–39711. The primary lease term of lease U–39711 ended on February 28, 1979, as the lease terms of U–7755 also applied to U–39711. Under the law, the nonunitized portion of leases continues in full force and effect for the original primary lease term or for two years from their segregation from the unit plan, whichever is longer, and so long thereafter as oil or gas is produced in paying quantities. Thus, lease U–39711 would have expired on January 30, 1980, unless production of oil or gas in paying quantities was established by that date.

The Pacific Transmission Supply Company (Pacific) and the Chorney Oil Company (Chorney) are the record title holders of lease U–39711. In late 1979, Pacific and Chorney entered into an agreement with Paiute Oil and Mining Corporation (POMCO), which designated POMCO as the lease operator.

On January 3, 1980, POMCO submitted an application to drill a well and preliminary staking of the well was authorized on January 4, 1980. The application to drill was approved on January 25, 1980.

POMCO reported that it was drilling by January 29, 1980, with a small drill rig because a larger rig capable of drilling to the desired depth was not available at that time and that following the start of drilling, further drilling was delayed until February 13, 1980, the earliest time that the larger rig could be moved to the drill site. A February 12, 1980, Geological Survey report of a field inspection of POMCO's well indicated that drilling was expected to begin in about two days. In any case, production in paying quantities was not established for the well on or before January 30, 1980.

On February 12, 1980, POMCO was ordered to cease operations on the well until certain ponds were fenced. On February 20, 1980, the Geological Survey reinspected the site and authorized resumption of operations.

On June 9, 1980, the Geological Survey notified POMCO that lease U–39711 had expired on its own terms on January 30, 1980, and advised that plans should be made to plug and abandon the well, and rehabilitate the site.

In July 7, 1980, letter to the USGS, POMCO indicated that none of the company officials ever saw the actual lease documents until after the well was drilled and had relied on the oral statement of a Government employee that mere drilling on the expiration date would qualify the lease for extension. Moreover, POMCO officials stated they believed that they were drilling under the provisions applicable to the primary terms of an oil and gas lease, that they had spent $340,000 in developing the lease, and that representatives of the Geological Survey were present at the drill site on January 30, 1980, to verify that the well was started. However, evidence from the Geological Survey indicated that the responsible Geological Survey office has no record

of any of its personnel being present at the drill site on January 30, 1980.

The July 7 letter, also indicated that because of delays in the delivery of heavy duty drilling equipment, production never began on the leasehold, but that field testing completed on February 24, 1980, proved that the well was capable of production, and that this conclusion was verified by an independent evaluation dated April 5, 1980. In an August 13, 1980, letter to the Geological Survey, POMCO advised that it was new to the business of drilling oil wells.

Under the Mineral Leasing Act of 1920, the Secretary does not have the authority to reinstate leases that expire because of a failure to establish production prior to the end of the lease term. Thus, reinstatement of the lease is dependent on action by the Congress.

The Committee is of the opinion that the extension of the terms of the leases is justified for the following reasons:

(1) POMCO, as operator of the lease will lose the $340,000 it has invested in the lease even though it was diligent in pursuing development of the lease shortly after it was designated as operator;

(2) An inexperienced operator that has been led to believe by the owner of record that a lease is in its primary term could be confused as to what actions will qualify the lease for an extension, since leases in their primary terms can be extended for two years by mere drilling over the expiration date of the lease;

(3) The Geological Survey approved the application to drill on January 25, 1980, even though it should have known that production could not be achieved before January 30, 1980;

(4) Even though the Geological Survey should have known on January 30, 1980, that the lease had expired, a representative of the agency made inspections of the operation on February 12 and 20, 1980. This could have led the operator to believe that the lease had been extended, and could have induced the operator to spend more money in developing the lease after its January 30, 1980 expiration date;

(5) POMCO would be able to begin production of the lease long before any new lessee could do so; and

(6) The bill would impose on the company the same penalties that would apply if the lease could be reinstated under the terms of section 401 of the Federal Oil and Gas Royalty Management Act of 1982. The increased royalty would probably equal any bonus that would be received by the Government if the lease were to be offered competitively. This is especially true since 320 acres of the 640-acre leasehold has been determined to be in a known geologic structure (KGS), and only that portion of the leasehold that is in a KGS would be leased competitively.

In light of these considerations, the Committee believes it would be equitable to allow the leases' terms to be extended six months after the effective date of this bill and so long thereafter as oil or gas is produced in paying quantities.

However, the Committee wishes to make it clear that by reporting out S. 1770, it does not condone or endorse the efforts and activities the lessee made in an effort to comply with the diligence requirements set

forth under the terms of the lease and the Mineral Lands Leasing Act of 1920. Moreover, the Committee expects all leaseholders to comply with the diligent development requirements under the terms of the lease and the law and not to look to Congress for relief if these requirements are not met.

LEGISLATIVE HISTORY

S. 1770 was introduced on August 4, 1983 by Mr. Garn (for himself and Mr. Hatch). A hearing was held by the Subcommittee on Energy and Mineral Resources on March 14, 1984. The bill was considered in an open business session on June 27, 1984.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 27, 1984 by a majority vote of a quorum present recommended that the Senate pass S. 1770 if amended, as described herein.

YEAS—18	NAYS—2
McClure	Evans
Hatfield [1]	Bumpers
Weicker	
Domenici [1]	
Wallop	
Warner	
Murkowski [1]	
Nickles	
Hecht [1]	
Chafee [1]	
Heinz [1]	
Johnston [1]	
Ford	
Matsunaga	
Melcher	
Tsongas [1]	
Bradley	
Levin [1]	

[1] Indicates voted by proxy.

Committee Amendments

Amendments 1–3 are technical amendments, amendment 4 sets forth a definite time of 6 months for the lessee to install production equipment and facilities on lease U–39711.

Cost and Budgetary Considerations

This measure is in the nature of private relief, however, the Committee feels that no significant cost or budgetary impact will result from its enactment.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1770 as reported.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1770.

Executive Communications

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1770 is set forth as follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, April 19, 1984.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on S. 1770, a bill "To extend the lease terms of Federal oil and gas lease numbered U–39711."

We would not object to enactment of the bill if the Congress finds that the lessee warrants special relief.

Under S. 1770, oil and gas lease U–39711 would be held not to have terminated by operation of law and would be deemed to be in full force and effect as having been capable of producing oil and gas prior to the expiration date of the lease. The term of the lease would be extended forward from the expiration date for so long after the date of enactment of the Act as oil and gas is produced in paying quantities. The lessor would be given a reasonable time to install production equipment and facilities on the lease.

Within 30 days after receipt of written notice from the Secretary, the lessee would be required to tender payment of back rental at the rate of no less than $5 per acre per year. The Secretary would be required to include in the reinstated lease a future rental requirement of not less than $5 per acre per year and a future royalty rate of not less than 16⅔ percent. Except as specifically modified by S. 1770 as to lease U–39711, all other provisions of the Mineral Leasing Act of 1920 would apply to the lease.

Lease U–7755 comprising approximately 1,119 acres in Uintah County, Utah, was issued on March 1, 1969, for a term of ten years. On January 30, 1978, the United States Geological Survey (USGS) approved a lease unit, the Castle Unit, which included a portion of lease U–7755. The 640 acre portion of lease U–7755 not committed to

that unit, the nonunitized portion, was segregated out and designated lease U–39711. The primary lease term of lease U–39711 ended on February 28, 1979, because the lease terms of U–7755 also applied to U–39711. Under the law, the nonunitized portion of leases continues in full force and effect for the original primary lease term or for two years from their segregation from the unit plan, whichever is longer, and so long thereafter as oil or gas is produced in paying quantities. Thus, lease U–39711 would have expired on January 30, 1980, unless production of oil or gas in paying quantities was established by that date.

The Pacific Transmission Supply Company (Pacific) and the Chorney Oil Company (Chorney) are the record title holders of lease U–39711. In late 1979, Pacific and Chorney entered into an agreement with Paiute Oil and Mining Corporation (POMCO), which designated POMCO as the lease operator. Notices to that effect were sent to the Government by Chorney on December 17, 1979, and by Pacific on January 22, 1980.

On January 3, 1980, POMCO submitted an application to drill well No. 24–15, and preliminary staking of the well was authorized on January 4, 1980. The authorization noted that the start of actual work was dependent on the completion of a survey for cultural resources, and threatened and endangered flora and fauna. The application to drill was approved on January 25, 1980. The operator has reported that it was drilling by January 29, 1980, with a small drill rig because a larger rig capable of drilling to the desired depth was not available at that time. Following the start of drilling, further drilling was delayed until February 13, 1980, the earliest time that the larger rig could be moved to the drill site. A February 12, 1980, Geological Survey report of a field inspection of well No. 24–15 and other wells indicates that drilling on well No. 24–15 was expected to begin in about two days. In any case, production in paying quantities was not established for well No. 24–15 on or before January 30, 1980.

The operators of the wells covered by the February 12, 1980, report were ordered to cease operations on all the wells covered by the report until certain ponds were fenced. On February 20, 1980, the USGS reinspected the sites and authorized resumption of operations.

On June 9, 1980, the USGS notified POMCO that lease U–39711 had expired on its own terms on January 30, 1980, and advised that plans should be made to plug and abandon the well, and rehabilitate the site.

In a July 7, 1980, letter to the USGS, POMCO indicated that none of the company officials ever saw the actual lease documents until after the well was drilled and had relied on the oral statement of a Government employee that mere drilling on the expiration date would qualify the lease for extension. Moreover, POMCO officials stated in the letter that they believed that they were drilling under the provisions applicable to the primary term of an oil and gas lease, that they had spent $340,000 in developing the lease, and that representatives of the USGS were present at the drill site on January 30, 1980, to verify that the well was started. We note, however, that the responsible USGS office has no record of any of its personnel being present at the drill site on January 30, 1980.

In the July 7 letter, POMCO officials also indicated that because of delays in the delivery of heavy duty drilling equipment, production never began on the leasehold, but that field testing completed on February 24, 1980, proved that the well was capable of production, and that this conclusion was verified by an independent evaluation dated April 5, 1980. In an August 13, 1980, letter to the USGS, POMCO advised that it was new to the business of drilling oil wells.

The designation of an operator does not relieve the lessee of responsibility for compliance with the terms of the lease and the applicable regulations, and it is assumed that a lessee and/or his operator is thoroughly knowledgeable about the terms of the lease. Even though POMCO may have relied on the oral statement of a Government employee in assuming that drilling over the expiration date would qualify the lease for a two-year extension, erroneous oral statements by Government employees cannot relieve an operator from compliance with either the law or the terms of a lease.

Under the Mineral Leasing Act of 1920, the Secretary does not have the authority to reinstate leases that expire because of a failure to establish production prior to the end of the lease term. Thus, reinstatement of the lease is dependent on action by the Congress.

We offer the following information which may be helpful as the Congress considers the reinstatement issue:

POMCO, as operator of the lease will lose the $340,000 it has invested in the lease even though it was diligent in pursuing development of the lease shortly after it was designated as operator.

An inexperienced operator that has been led to believe by the owner of record that a lease is in its primary term could be confused as to what action will qualify the lease for an extension, since leases in their primary terms can be extended for two years by mere drilling over the expiration date of the lease, and especially if a statement to that effect, in regard to the lease in question, has been made by a Government employee.

The USGS approved the application to drill on January 25, 1980, even though it should have known that production could not be achieved before January 30, 1980.

Even though the USGS should have known on January 30, 1980, that the lease had expired, a representative of the agency made inspections of the operation on February 12 and 20, 1980. This could have led the operator to believe that the lease had been extended, and could have induced the operator to spend more money in developing the lease after its January 30, 1980 expiration date.

POMCO has alleged that it could not locate the lease file in the Bureau of Land Management's office in Utah. If that is true, it may have been one of the reasons that the company was not knowledgeable about the terms of the lease.

POMCO would be able to begin production of the lease long before any new lessee could do so.

Finally, we note that the bill would impose on the company the same penalties that would apply if the lease could be reinstated under the terms of section 401 of the Federal Oil and Gas Royalty Management Act of 1982. The increased royalty would probably equal any bonus that would be received by the Government if the lease were to

be offered competitively. This is especially true since 320 acres of the 640-acre leasehold has been determined to be in a known geologic structure (KGS), and only that portion of the leasehold that is in a KGS would be leased competitively.

We suggest two amendments to the bill. The phrase "oil and gas" should be replaced wih the phrase "oil or gas" in both places that it appears. In addition, we recommend that the leasee be required to install production equipment and facilities on the lease within 6 months, rather than the "reasonable time" granted by the bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GARREY E. CARRUTHERS,
Assistant Secretary.

CHANGES IN EXISTING W

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1770, as reported.

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Calendar No. 1038

98TH CONGRESS
2d Session

SENATE

REPORT
98-541

TO CLARIFY THE TREATMENT OF MINERAL MATERIALS ON PUBLIC LANDS

JUNE 28 (legislative day, JUNE 25), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2157]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2157) to clarify the treatment of mineral materials on public lands, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill (as amended) do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 4 of the Act entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of public lands, and for other purposes", approved July 23, 1955 (69 Stat. 368; 30 U.S.C. 612) is amended—

(1) in subsection (b) by—

(A) inserting after "vegetative" the following "and mineral material"; and

(B) inserting after the second proviso the following: "*Provided further*, That if at any time the locator requires more mineral material for his mining operations than is available to him from the claim after disposition of mineral material therefrom by the United States subsequent to the location of the claim, he shall be entitled, free of charge, to mineral material for such requirements from the nearest mineral material site administered by the disposing agency which contains mineral material substantially equivalent to that estimated by the disposing agency to have been disposed of from the claim subject to reasonable rules and regulations for the protection of nonmineral resource values including environmental values:"; and

(2) in subsection (c) by inserting after "vegetative" the following "and mineral material".

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Purpose

The purpose of S. 2157 is to amend section 4 of the Act of July 23, 1955, as amended, to specifically authorize the United States to dispose of mineral materials located on unpatented mining claims. Further, S. 2157 provides that if at any time the mining claimant requires more mineral material for his mining operations than is available after the United States has disposed of mineral material from his claim, he shall be entitled, free of charge, to mineral material substantially equivalent to that estimated by the disposing agency to have been disposed of from the claim. Such mineral material shall be from the nearest mineral material site administered by the disposing agency. In addition, the bill specifically limits the use of mineral materials by the mining claimant to those from prospecting, mining or processing operations and uses reasonably incident to, or for the construction of buildings or structures in connection with the mining operation.

Background and Need

Prior to the passage of the Act of July 23, 1955, mining claims could be located for sand and gravel and other mineral materials under the mining laws, assuming the mining claimant could satisfy the discovery criteria of the mining laws. One of the principal objectives of the 1955 Act was to clarify the scope of a mining claimant's rights to utilize and control "surface resources" found within the limits of the claim. Enactment of such legislation was prompted by the perception that mining claimants had abused the mining laws so as to gain control of surface resources for non-mining purposes such as timber harvesting, the establishment of fishing and hunting camps, limitation of property access, and other residential and commercial purposes. Thus, prior to the passage of the 1955 Act, the United States had no authority to enter a properly located mining claim for the purpose of managing or disposing of vegetative surface resources or mineral materials which the mining claimant had a right to, assuming the claim was valid.

The 1955 Act granted the United States the right to manage and dispose of vegetative surface resources on unpatented mining claims located after July 23, 1955 but prior to issuance of a mineral patent on the claim. The mining claimant's right to such vegetative surface resources was restricted to their use for prospecting, mining or processing operations and uses reasonably incident to, or for the construction of buildings or structure in connection with the operation as authorized by the United States in accordance with sound principles of forest management.

The 1955 Act also granted to the United States the right to "manage other surface resources" on unpatented mining claims located subsequent to enactment but prior to issuance of mineral patent thereto. However, this language has been interpreted as not including the right of the United States or the mining claimant to dispose of surface resources such as sand and gravel and other "common varieties" of mineral materials.

Testimony received by the Committee indicates that many western states are experiencing significant problems in obtaining sand and gravel and other mineral materials from public lands for industrial construction, and road construction and maintenance because much of this land is blanketed with unpatented mining claims. This situation

is particularly acute in the area around Moab, Utah where approximately 120,000 unpatented mining claims have been located. Many of these claims were located for uranium during the uranium boom of the early 1970's. While a percentage of these claims may be speculative with respect to uranium or other locatable minerals, witnesses testified that a considerable percentage of these claims do possess significant quantities of mineral materials, including sand and gravel. Unfortunately, without the enactment of S. 2157 neither the United States nor mining claimant(s) have the authority to dispose of such mineral materials even where a case can be made that such disposal would not interfere with the enjoyment of rights associated with the mining claim(s).

The Committee believes that there is a need to provide the United States with disposal authority for mineral materials analogous to that which was provided in the 1955 Act for vegetative surface resources. This bill will accomplish that end.

Legislative History

S. 2157 was introduced on November 18, 1983 by Senator Jake Garn for himself and Senator Orrin Hatch.

A legislative hearing was held by the Subcommittee on Energy and Mineral Resources on May 22, 1984 at which time testimony was received from public witnesses and the Administration.

On June 27, 1984, the Full Committee adopted S. 2157 with an amendment in the nature of a substitute and reported the bill favorably.

Committee Recommendation and Tabulation of Votes

The Senate Commission on Energy and Natural Resources, in open business session on June 27, 1984, with a quorum present, recommended that the Senate pass S. 2157, if amended as described herein.

The roll call vote on reporting the measure was 20 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Weicker	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles	
Mr. Hecht [1]	
Mr. Chafee [1]	
Mr. Heinz [1]	
Mr. Evans	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Matsunaga	
Mr. Melcher	
Mr. Tsongas [1]	
Mr. Bradley	
Mr. Levin [1]	

[1] Indicates voted by proxy.

Committee Amendment

The Committee amended S. 2157 to strike all after the enacting clause and insert a substitute text. Aside from technical and clarifying amendments, the Committee's substitute text made the following substantive changes to the bill as introduced:

In subparagraph "(B)" of the bill, the words "be supplied with" were deleted. The Committee deleted these words because of concern expressed by the Administration that words might be construed to mean that the United States would be required to do more than make mineral materials available to the mining claimant.

Also, in subparagraph "(B)" of the bill, the Committee amended the language as introduced to clarify that the mining claimant would be entitled only to mineral material substantially similar in kind and quantity as that disposed of from the claim. This clarification was also recommended by the Administration so that a mining claimant would not have the ability to obtain mineral materials superior to that which had been disposed of from the claim.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee finds that there will be no significant regulatory impact incurred in carrying out the provisions of S. 2157.

Executive Communications

The Committee did not request any legislative reports or communications regarding S. 2157.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2157, as ordered reported, are shown as follows (existing law proposed to be changed by the insertion of new matter is printed in italic and existing law in which no change is proposed is shown in roman):

(69 Stat. 368; 30 U.S.C. 612)

TO AMEND The Act of July 31, 1947 (61 stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1947 (61 Stat. 681), is amended to read as follows:

Section 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not

limited to common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this Act, land described in the Acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including, but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however*, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture."

SEC. 2. That section 3 of the Act of July 31, 1947 (61 Stat. 681), as amended by the Act of August 31, 1950 (64 Stat. 571), is amended to read as follows:

"All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874), and the Act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with said Acts and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said Act."

SEC. 3. A deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however*, That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this Act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more.

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative *and mineral material* surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however*, That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further, That if at any time the locator requires more mineral material for his mining operations than is available to him from the claim after disposition of mineral material therefrom by the United States subsequent to the location of the claim, he shall be entitled, free of charge, to mineral material for such requirements from the nearest mineral material site administered by the disposing agency which contains mineral material substantially equivalent to that estimated by the disposing agency to have been disposed of from the claim subject to reasonable rules and regulations for the protection of non-mineral resource values including environmental values: Provided further*, That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further*, That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, ap-

propriation, use, and distribution of ground or surface waters within any unpatented mining claim.

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures, in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative *and mineral material* or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

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